

JUAN OYAO, COMPLAINANT, VS. PRISCO PABATAO, MUNICIPAL JUDGE OF MOLAVE, ZAMBOANGA DEL SUR, RESPONDENT.*A.M. No. 782-MJ. July 29, 1977*

Ponente: ANTONIO, J.

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Respondent Municipal Judge Prisco N. Pabatao, of Molave, Zamboanga del Sur, is charged with misconduct, dishonesty and ignorance of the law.

Complainant's charges stemmed from respondent's Order of dismissal dated April 23, 1974 in Criminal Case No. 2360 (for theft of two steel bars) wherein complainant Juan Oyao is the offended party. It appears that at the instance of Juan Oyao, the Chief of Police of Molave, Zamboanga del Sur filed a complaint for theft against Hospicio Geraldizo and Judith Geraldizo on March 20, 1974. On April 23, 1974, after a "careful and serious consideration" of complainant's affidavit and those of his witnesses, respondent Judge "dismissed the case for lack of probable cause", and remanded the records of the case "to the Clerk of Court of First Instance, Pagadian, City, for the information and review of the * * * Provincial Fiscal." In the aforementioned Order, the respondent stated that on the basis of the preliminary examination conducted by him, no witness testified that they saw the two accused steal the two steel bars in question and that the reason why the complainant charged them was that he "assumed that it was Hospicio Geraldizo and Judith Geraldizo who stole the two steel bars", and while the two steel bars were found in the house of the accused Hospicio Geraldizo. Hospicio Geraldizo and Judith Geraldizo were both engaged in the buying and selling of scrap iron. Contrary to the reasoning of respondent, it is not necessary that the accused has been seen by a witness in the act of stealing the property, to create a presumption of guilt from possession of stolen property. It is enough to show that the property has been stolen, and the stolen property is found in the possession of the accused, who cannot satisfactorily explain his possession. Thus, it is a well-established doctrine that if the defendant cannot give a satisfactory explanation as to his possession of stolen property, a prima facie case exists against him for theft. For it has been said that men who come honestly into the possession of property have no difficulty in explaining the method by which they came to such possession.[1] This rule is embodied in Section 5[j] of Rule 131 of the Revised Rules of Court, on disputable presumptions, to wit: "that a person found in possession of a thing taken in the doing of a recent wrongful act is the taker and doer of the whole act; otherwise, that things which a person possesses, or exercises acts of ownership over, are owned by him."

It appears, however, that respondent Judge did not accord much credence to the claim that the two steel bars, which were found in the possession of the accused, were the very same steel bars which were allegedly stolen from Juan Oyao "sometime in the latter part of February, 1974" (Annex "C-2"). Given this doubt, how could he be charged with grave misconduct in his conclusion that there is no reasonable ground to believe that the accused committed the offense in question? The question of whether probable cause exists or not must depend upon the judgment of the judge or magistrate issuing the warrant. To sustain a finding of probable cause means that sufficient facts have been presented to the judge issuing the warrant to convince him, not that the particular person

has committed the crime, but that there is probable cause for believing that the person whose arrest is sought committed the crime charged. There is no fixed rule that can be established which will govern the discretion of the judge in this matter. It all depends on the attendant facts. Our attention has not been invited to any fact in the records of the case from which We could adequately conclude that respondent has acted arbitrarily.

In any event, this dismissal of the case does not preclude the refiling of the case should the Provincial Fiscal, to whom the records were referred for review, be of a different view. Thus, Section 6, Rule 112 of the Revised Rules of Court does not provide for appeal if the municipal judge dismisses the complaint after conducting the investigation previous to arrest, because such dismissal does not bar the filing of another complaint for the same offense, and there is no accused to be released by the dismissal.[2]

Hence, even assuming that the dismissal of the case is erroneous, this would be merely an error of judgment and not serious misconduct. The term "serious misconduct" is a transgression of some established and definite rule of action, more particularly, unlawful behavior or gross negligence by the magistrate. It implies a wrongful intention and not a mere error of judgment. For serious misconduct to exist, there must be reliable evidence showing that the judicial acts complained of were corrupt or inspired by intention to violate the law, or were a persistent disregard of well-known legal rules.[3] We have previously ruled that negligence and ignorance on the part of a judge are inexcusable if they imply a manifest injustice which cannot be explained by a reasonable interpretation. This is not so in the case at bar.

WHEREFORE, the respondent is EXONERATED of the charges.

Fernando, (Chairman), Barredo, Aquino, Concepcion, Jr., and Santos, JJ., concur.

[1] U.S. v. Soriano, 9 Phil. 98; 441 & 445 (3 cases); U. S. v. Paguia, et al., 10 Phil. 90; U. S. v. Jamero, 10 Phil. 137; U.S. v. Soriano & Villalobos, 12 Phil. 512; U. S. v. Espia, 16 Phil. 506; U. S. v. Divino, 18 Phil. 425; U. S. v. Tapan & De Leon, 20 Phil. 211; U.S. v. Javier, et al., 37 Phil. 449; U. S. v. Mohamad Ungal, 37 Phil. 835; People v. Tanchoco, 76 Phil. 463; People v. Magbanua, 77 Phil. 79.

[2] People v. Ocampo, 63 Phil. 121; Temporora v. Yatco, et al., 79 Phil. 225.

[3] In Re: Horilleno, 43 Phil. 212.

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